HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2490 OF 2004.

Badremunir Shamshuddin Tahasildar. ...Petitioner

V/s.

Haji Kamalsaheb Imamsaheb Mushrif & Ors...Respondents.

Shri Umesh Mankapure with R.V.More, for petitioner

Shri A.S.Gadkari, APP for State.

CORAM: A.M.KHANWILKAR,J
DATE : APRIL 8, 2005

P.C. :-

1. Heard counsel for the parties.

2. I see no reason to depart from the concurrent view taken by the two courts below in rejecting the discharge application preferred by the petitioner.

3. To get over that position,learned counsel for the petitioner strenuously argued that the appointment of respective staff namely Class-III post, teachers and laboratary assistant was required to be done in August, 1995, whereas the petitioner resigned as the secretary in June, 1994. However, it is seen from the record that there is no evidence on record to suggest that the petitioner had resigned as the Secretary in June, 1994.

4. The counsel for the petitioner then relied on the statement of Sou. Nazama Babu Punekar and Mustapha Hasan Nadaf to contend that these witnesses have stated that the applicant was in no way connected with the activities of the school at the relevant time in August, 1995. This submission however, overlooks that the statement nowhere indicates that the applicant was not the secretary of the Managing Committee at the relevant time. At best, it mentions that the applicant ceased to be the "member of the school committee".

5. Viewed in this perspective, for the reasons recorded by the Sessions Judge in Paragraph No.11 and 12 in the impugned decision, I see no reason to interfere in this petition.

6. Th next argument tht, under the provisions of School Code, appointment is required to be done only by the School Committee, overlooks the position that the applicant has been named as accused with the charge of criminal conspiracy as it appears that he was the Secretary of the Managing Committee at the relevant time and involved in the activities of the Soceity. All these aspects will be considered at the end of the trial, after evidence is adduced at the trial.

7. Hence, application dismissed.